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Special Litigation Counsel for USACM Liquidating Trust

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Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In re:  
USA COMMERCIAL MORTGAGE COMPANY,  
  
Debtor.

In re:  
USA CAPITAL REALTY ADVISORS, LLC,  
  
Debtor.

In re:  
USA CAPITAL DIVERSIFIED TRUST DEED  
FUND, LLC,  
  
Debtor.

In re:  
USA CAPITAL FIRST TRUST DEED FUND,  
LLC,  
  
Debtor.

In re:  
USA SECURITIES, LLC,  
  
Debtor.

Affects:  
☐ All Debtors  
☒ USA Commercial Mortgage Company  
☐ USA Capital Realty Advisors, LLC  
☐ USA Capital Diversified Trust Deed Fund, LLC  
☐ USA Capital First Trust Deed Fund, LLC  
☐ USA Securities, LLC

Case Nos.:  
BK-S-06-10725-LBR  
BK-S-06-10726-LBR  
BK-S-06-10727-LBR  
BK-S-06-10728-LBR  
BK-S-06-10729-LBR

JOINTLY ADMINISTERED  
Chapter 11 Cases

Judge Linda B. Riegle Presiding

**NOTICE OF FILING PROOFS OF  
SERVICE OF SUBPOENAS FOR  
RULE 2004 EXAMINATION**

NOTICE IS GIVEN that the USACM Liquidating Trust herewith files the:

**Proof of Service of Subpoena for Rule 2004 Examination  
of Eugene Buckley (Exhibit A Attached);**

1 **Proof of Service of Subpoena for Rule 2004 Examination**  
2 **of John M Keilly (Exhibit B Attached); and**

3 **Proof of Service of Subpoena for Rule 2004 Examination**  
4 **on Hila Luzon, Authorized Agent of John H. Pilkington,**  
5 **Resident Agent for J.M.K. Investments, Ltd. (Exhibit C**  
6 **Attached).**

7  
8  
9 DATED: June 1, 2007

10 **DIAMOND MCCARTHY LLP**

11 **LEWIS AND ROCA LLP**

12 By: /s/ Eric D. Madden  
13 Allan B. Diamond, TX 05801800 (pro hac vice)  
14 William T. Reid, IV, TX 00788817 (pro hac vice)  
15 Eric D. Madden, TX 24013079 (pro hac vice)  
16 909 Fannin, Suite 1500  
17 Houston, Texas 77010  
18 (713) 333-5100 (telephone)  
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20 By: /s/ Rob Charles  
21 Susan M. Freeman, AZ 4199 (pro hac vice)  
22 Rob Charles, NV 6593  
23 3993 Howard Hughes Parkway, Suite 600  
24 Las Vegas, Nevada 89169-5996  
25 (702) 949-8320 (telephone)  
26 (702) 949-8321 (facsimile)

*Special Litigation Counsel for*  
*USACM Liquidating Trust*

*Counsel for USACM Liquidating Trust*

## PROOF OF SERVICE

DATE:  
8:41 PM

PLACE:

SERVED: 05-21-07 7731 SPANISH BAY DRIVE LV, NV 89113

SERVED ON (PRINT NAME)

EUGENE BUCKLEY

MANNER OF SERVICE

PERSONAL

## DECLARATION OF SERVER

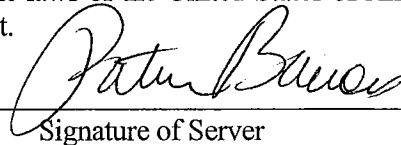
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

5-23-07

Date

Signature of Server



1118 FREMONT STREET LV, NV 89113

Address of Server

Rule 45, Federal Rules of Civil Procedure, Parts (c) & (d) made applicable in cases under the Bankruptcy Code by Rule 9016, Fed.R.Bankr.P.:

## (c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order by the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any persons who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held or,

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

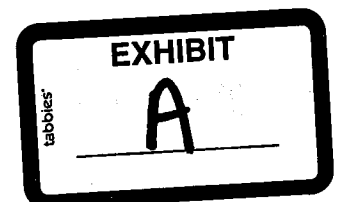
(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## (d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.



**United States Bankruptcy Court**

DISTRICT OF NEVADA

IN RE

USA COMMERCIAL MORTGAGE COMPANY,  
 USA CAPITAL REALTY ADVISORS, LLC,  
 USA CAPITAL DIVERSIFIED TRUST DEED FUND LLC,  
 USA CAPITAL FIRST TRUST DEED FUND LLC,  
 USA SECURITIES, LLC,

DEBTORS.

AFFECTS: ALL DEBTORS

TO: Eugene Buckley  
 c/o Andrew S. Gabriel  
 McDonald, Carano, Wilson LLP  
 2300 W. Sahara Avenue  
 Suite 1000, No. 10  
 Las Vegas, Nevada 89102-4396

SUBPOENA FOR RULE 2004 EXAMINATION

CASE NOS. BK-S-06-10725 LBR  
BK-S-06-10726 LBR  
BK-S-06-10727 LBR  
BK-S-06-10728 LBR  
BK-S-06-10729 LBR

JOINTLY ADMINISTERED UNDER  
 CASE No. BK-S-06-10725-LBR

**X YOU ARE COMMANDED** to appear for examination under Federal Rule of Bankruptcy Procedure 2004, pursuant to the attached court order, regarding the following topics at the place, date and time specified below:

**SEE ATTACHED EXHIBIT A FOR TOPICS OF EXAMINATION**

PLACE OF TESTIMONY	DATE AND TIME
LEWIS AND ROCA, LLP 3993 HOWARD HUGHES PARKWAY, SUITE 600 LAS VEGAS, NEVADA 89169 (702) 949-8200	June 26, 2007 at 9:30 A.M. (or such other mutually agreeable date and/or time)

**X YOU ARE COMMANDED** to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below:

**SEE ATTACHED EXHIBIT B FOR DOCUMENTS REQUESTED**

PLACE	DATE
LEWIS AND ROCA, LLP 3993 HOWARD HUGHES PARKWAY, SUITE 600 LAS VEGAS, NEVADA 89169 (702) 949-8200	June 15, 2007 at 10:00 A.M. (or such other mutually agreeable date and/or time)

ISSUING OFFICER'S SIGNATURE AND TITLE	DATE
 Special Litigation Counsel for the USACM Liquidating Trust	May 15, 2007

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

ERIC D. MADDEN  
 DIAMOND MCCARTHY LLP  
 1201 ELM STREET, 34TH FLOOR  
 DALLAS, TEXAS 75270  
 (214) 389-5306

# AFFIDAVIT OF SERVICE

STATE OF NEVADA     )  
                                  )  
COUNTY OF CLARK    )

MARIE A SCHEIB, being duly sworn deposes and says: that at all times herein affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process in the state of Nevada under license #389, and not a party to or interested in the proceeding in which this affidavit is made. The affiant received on Thursday May 24 2007; 1 copy(ies) of the:

**SUBPOENA FOR RULE 2004 EXAMINATION, ORDER REQUIRING JOHN M. KEILLY TO PRODUCE DOCUMENTS AND APPEAR FOR EXAMINATION PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 2004, AND \$50.00 WITNESS FEE CHECK**

I served the same on Friday May 25 2007 at 12:13PM by:

**Serving the Witness, JOHN M KEILLY C/O JOHN H. PILKINGTON**

Substituted Service, by leaving the copies with or in the presence of: HILA LUZON, RECEPTIONIST Authorized Agent. at the Witness's Business located at 517 S. THIRD STREET, Las Vegas, NV 89101.



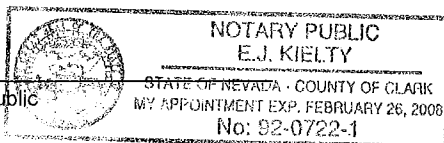
SUBSCRIBED AND SWORN to before me on this  
Friday May 25 2007

A handwritten signature in black ink, appearing to read "Marie A Scheib".

Affiant: MARIE A SCHEIB  
LEGAL WINGS, INC. - NV LIC #389  
1118 FREMONT STREET  
Las Vegas, NV 89101  
(702) 384-0305, FAX (702) 384-8638

A handwritten signature in black ink, appearing to read "E.J. Kielty".

Notary Public



# AFFIDAVIT OF SERVICE

STATE OF NEVADA     )  
                                  )  
COUNTY OF CLARK    )

MARIE A SCHEIB, being duly sworn deposes and says: that at all times herein affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process in the state of Nevada under license #389, and not a party to or interested in the proceeding in which this affidavit is made. The affiant received on Thursday May 24 2007; 1 copy(ies) of the:

**SUBPOENA FOR RULE 2004 EXAMINATION, ORDER REQUIRING J.M.K. INVESTMENTS, LTD. TO PRODUCE DOCUMENTS AND ONE OR MORE REPRESENTATIVES FOR EXAMINATION PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 2004, AND \$50.00 WITNESS FEE CHECK**

I served the same on Friday May 25 2007 at 12:13PM by:

**Serving the Witness, J.M.K. INVESTMENTS, LTD. C/O JOHN H. PILKINGTON, RESIDENT AGENT**

Substituted Service, by leaving the copies with or in the presence of: HILA LUZON, RECEPTIONIST Authorized Agent. at the Witness's Business located at 517 S. THIRD STREET, Las Vegas, NV 89101.



SUBSCRIBED AND SWORN to before me on this  
Friday May 25 2007

A handwritten signature in cursive script, appearing to read "Marie A Scheib".

**Affiant: MARIE A SCHEIB  
LEGAL WINGS, INC. - NV LIC #389  
1118 FREMONT STREET  
Las Vegas, NV 89101  
(702) 384-0305, FAX (702) 384-8638**

A handwritten signature in cursive script, appearing to read "E.J. Kielty".

